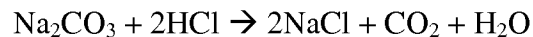


C. Remarks

The claims are 1, 2, 7-18, 20-25, 28-30 and 34, with claims 1, 2, 11, 24, and 34 being in independent form. Favorable reconsideration is respectfully requested.

Claims 1, 2, 7-18, 20-23, 28-30 and 34 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over *Winskill et al.* (Applied Animal Behavior Science, 48, 25-35 (1996)) in view of *Johnson et al.* (Equine Vet. J., 30(2), 139-143 (1998)), further in view of *Pagan* (Australian Equine Veterinarian, 16(4), 159-161 (1998)). Claims 24 and 25 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over *Johnson et al.*, and *Winskill et al.*, in view of *Pagan*. Applicants respectfully traverse these rejections.

The Examiner asserts that *Johnson* “refers to the effect of sodium carbonate on acidity of the hindgut and stereotypy” and so “it would be obvious to include carbonate in the feed of horses in order to treat acidity and stereotypy of the horses”. Office Action, p. 7. However, the Examiner overlooks the evidence provided by Applicants against the oral use of sodium carbonate to cause a reduction in hindgut acidity. *See* Declaration of Dr. Patricia Harris, filed October 6, 2006 (hereinafter “Harris 2006 Declaration”), ¶¶ 10-13. The Harris 2006 Declaration included reference to Deuel et al., which reports that feed pH was negatively correlated with fecal pH. *Id.* at ¶ 10. In addition, a person skilled in the art would know from their common general knowledge that neutralization of orally provided sodium carbonate will occur in the stomach, in particular, due to the presence of hydrochloric acid. Sodium carbonate, therefore, acts as a gastric antacid:



In support of these arguments, a further Declaration of Dr. Patricia Harris is attached (hereinafter “Harris 2008 Declaration”). Dr. Harris makes it clear that a person of ordinary skill in the art, in view of the evidence provided in the Harris 2006 Declaration, would

not have included sodium carbonate in the feed of horses to reduce hindgut pH or treat stereotypy. *See* Harris 2008 Declaration, at ¶ 6. In addition, none of the cited art disclose or suggest a link between stomach acidity and animal stereotypy. Consequently, Applicants submit that it would not have been obvious to a person of ordinary skill in the art to include sodium carbonate in the feed of horses to treat hindgut acidity or stereotypy.

The Examiner alleges that, “it is known in the art that gastric acidity is associated with equine stereotypy, as is evidenced in Johnson, such that treating gastric acidity would invariably treat stereotypy in the equine”. Office Action, p. 8. To reach this conclusion, the Examiner appears to rely on her assertion that “the stomach, the caecum and the hindgut are all part of the equine digestive system”. *Id.* Applicants respectfully submit that the Examiner is incorrect. First, the term “gastric” is defined in the Shorter Oxford English Dictionary, Fifth Edition, as, “of, pertaining to, or affecting the stomach”. Second, *Johnson* discloses only that it is “hypothesised that a relationship might exist between behavioural responses and pH of the hindgut”. *Johnson*, page 139, right column, last complete paragraph. However, there is no disclosure in *Johnson* stating that gastric acidity is associated with equine stereotypy. Third, identification of a link between *hindgut* acidity and stereotypy in a horse does not mean there is also a link between *stomach* acidity and stereotypy. *See* Harris 2006 Declaration, at ¶¶ 6-9. As explained in detail by Dr. Harris, there are significant fluid volume changes between the stomach and the hindgut, the pH of the digestive system changes between the stomach and the hindgut, and acidity in the hindgut has a different chemical basis compared to stomach acidity. *Id.*

The Examiner further asserts that *Johnson* “specifically notes that lowering of acidity leads to reduction in stereotypy”, and that “it flows that reduction in the acidity of the intestinal tract would lead to reduction in stereotypy.” *Id.* Applicants respectfully submit that

this is not, however, a complete statement of the disclosure of *Johnson*. As stated above, *Johnson* specifically hypothesises that a relationship might exist between pH of the hindgut and behavioural responses. However, there is no disclosure in *Johnson* of any association between stomach pH and behaviour. Therefore, Applicants respectfully submit that *Johnson* does not teach or suggest the present invention.

Regarding *Pagan*, the Examiner asserts that it “specifically associates gastric acidity with ulcers.” Office Action, p. 8. However, Applicants are unable to find any teaching or suggestion in *Pagan* that links formation of ulcers with stereotypic behaviour. In addition, as Applicants have previously explained, *Winskill* is silent as to any link between pH generally and stereotypies.

In sum, nothing in the cited art is believed to teach or suggest either a link between stomach acidity and stereotypy generally or providing a composition with a stomach antacid, fat and fiber as specifically recited in the present claims. It is also clear from Harris 2008 Declaration that the skilled person would not have treated or reduced ulcer formation or controlled stomach pH to treat, ameliorate, or minimize the risk of stereotypy. Based on the foregoing, Applicants therefore submit that Claims 1, 11 and 34, together with the claims dependent thereon, are patentable over *Winskill* and *Johnson*, further in view of *Pagan*. Independent Claims 2 and 24, together with the claims dependent thereon, are likewise believed patentable by virtue of at least the same reasons advanced above. Accordingly, withdrawal of the present rejections is kindly requested.

Wherefore, it is respectfully submitted that the presently claimed invention is not disclosed or suggested by the art of record whether taken alone or together. Accordingly, it is respectfully requested that the claims be allowed and the case passed to issue.

Applicants' undersigned attorney may be reached in our New York Office by telephone at (212) 218-2100. All correspondence should continue to be directed to our address listed below.

Respectfully submitted,

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